

**ONTARIO
SUPERIOR COURT OF JUSTICE**

BETWEEN:

CITY OF OTTAWA

Applicant

and

PERSONS UNKNOWN

Respondents

**FACTUM AND AUTHORITIES OF THE APPLICANT,
THE CITY OF OTTAWA**

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TO: Persons Unknown
 Ex Parte

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PART I: OVERVIEW

1. This is an application brought by the City of Ottawa (the “City”) against the respondents, Persons Unknown, for an interim injunction to restrain the respondents from ongoing numerous violations of municipal by-laws which have had the overarching effect of impeding and impairing the City’s ability to perform essential functions and protect public safety.
2. The named respondents are the participants of the Freedom Convoy 2022 demonstration (the “Demonstration”) currently taking place in Ottawa, Ontario.
3. The Demonstration commenced on January 28, 2022, in downtown Ottawa. The respondents have blockaded multiple streets in the downtown core of Ottawa, causing massive disruption to the City, including to residents, businesses, transit and emergency response services.
4. The respondents’ behaviour has also included parking and idling vehicles, including pick up trucks and semi trucks, mainly in the downtown core of the City but also in other areas of the City. The respondents have been observed lighting open fires without permits, erecting temporary shelters, setting off fireworks and violating various provisions on the City’s noise by-laws. The respondents have gone so far as to bring hot tubs onto City property, and erect a jumbotron on Wellington Street.
5. The City brings this motion for an injunction pursuant to section 440 of the *Municipal Act, 2001*, section 101 of the *Courts of Justice Act* and Rule 40 of the *Rules of Civil Procedure*, restraining the respondents from idling their vehicles in the downtown core, lighting open fires without a permit, setting off fireworks, causing excessive noise, and erecting temporary structures in contravention of municipal bylaws 2007-266; 2004-163; 2003-137, 2003-498 and 2017-255.

PART II: FACTS

6. The Demonstration was initially against COVID-19 vaccine requirements for truckers to re-enter the country by land introduced by the Government of Canada on January 15, 2022, and has grown into a broader demonstration against COVID-19 public health measures.
7. Respondents began to arrive in the City on January 28, 2022, and a rally was held on Parliament Hill on January 29, 2022.

8. Since then, the Respondents state that they are not leaving the City until their demands are met.

Paragraph 34 of Affidavit of Kim Ayotte, sworn February 13, 2022, Tab 2 of the Applicant's Application Record ("Ayotte Affidavit").

9. The Respondents' actions are disruptive to the City of Ottawa's ability to perform maintenance functions, provide public transportation, enforce By-laws, and protect the safety of members of the public and City staff. The respondent's actions include sounding horns, blocking streets, lighting open fires, setting off fireworks and causing significant noise in the City.

Paragraphs 20 and 21 of the Ayotte Affidavit.

10. The respondents flagrantly and repeatedly flout City of Ottawa by-laws with respect to idling, noise, open fires, fireworks and encroachment.

11. Vehicles owned or operated by respondents have been parked and idling on City streets since the beginning of the demonstration, in violation of the Idling by-law, by-law 2007-266.

Paragraphs 9 and 10 of the Ayotte Affidavit.

12. Respondents have also lit fires throughout the City in contravention of the City's Open Fire by-law, by-law 2004-163. The City of Ottawa Fire Services Department ("Fire Services") have responded to open air fires as part of the demonstration that were lit without a permit. Fire Services have not issued any open fire permits in relation to the demonstration.

Paragraphs 15 and 16 of the Ayotte Affidavit.

13. The City Fire Services have also responded to incident of fireworks being discharged in the downtown core in violation of the Fireworks by-law, by-law 2003-237.

Paragraph 18 of the Ayotte Affidavit.

14. There have been significant issues with noise as a result of the demonstrations, including noise from idling vehicles, loud vehicle horns, and sound and noise amplification devices such as concerts amounting to violations of noise by-law 2017-255.

Paragraph 21 of the Ayotte Affidavit.

15. The respondents have erected temporary structures, such as tents and lean-to shelters, throughout the downtown core of Ottawa and at RCGT Park. Some respondents have brought in hot tubs, and constructed stages upon which they have performed concerts and held dance parties. This conduct amounts to a violation of the City the Use and Care of Roads By-law, By-law No. 2003-498

Paragraph 13 of the Ayotte Affidavit.

16. On February 8, 2022, the Ontario Court of Justice issued an Order approving the City's request for an increased set-fine for noise violations, open-air fires, and use & care of roads. On February 9, 2022, the Ontario Court of Justice issued an Order approving the City's request for an increased set-fine for idling vehicles.

Paragraph 28 of the Ayotte Affidavit.

17. The ability to City to respond to by-law contraventions has been hampered by the activities of the respondents. City By-law officers have been told by the OPS not to enter the Demonstration zone to issue tickets for By-Law infractions, due to concerns for the safety of the By-law officers. I have also personally advised by-law officers not to enter the Demonstration zone unless they are accompanied by a member of the OPS.

Paragraph 23 of the Ayotte Affidavit.

18. The City's by-law enforcement office has received a significant increase in the number of calls reporting by-law violations in the downtown core and surrounding neighbourhoods since January 28, 2022.

Paragraph 22 of the Ayotte Affidavit.

19. Over 2,000 tickets for by-law infractions relating to parking, idling, noise, open fire and fireworks have been given out since January 28, 2022 in relation to the demonstration. Due to the hampering of By-law enforcement, many more offences have taken place for which tickets were not issued.

Paragraph 24 of the Ayotte Affidavit.

20. It does not appear that the increased fines have caused any notable decrease in the ongoing by-law violations.

PART III: ISSUES

21. The issues to be resolved on this motion are as follows:

- a. Should the City of Ottawa be granted an injunction pursuant to section 440 of the *Municipal Act, 2001*?
- b. In the alternative, should the City of Ottawa be granted an injunction pursuant to section 101 of the *Courts of Justice Act* and Rule 40.02 of the *Rules of Civil Procedure*?

PART IV: THE LAW AND ARGUMENT

A. Legislative Framework

22. Section 440 of the *Municipal Act, 2001*, states:

440 If any by-law of a municipality or by-law of a local board of a municipality under this or any other Act is contravened, in addition to any other remedy and to any penalty imposed by the by-law, the contravention may be restrained by application at the instance of a taxpayer or the municipality or local board.

[Municipal Act, 2001](#), S.O. 2001, c. 25. 2006, c. 32, [section 440](#).

23. Section 101 of the *Courts of Justice Act* and Rule 40.01 of the *Rules of Civil Procedure* authorize the Court to grant an interlocutory injunction “where it appears to a judge of the court to be just or convenient to do so”.

[Courts of Justice Act](#), RSO 1990, c C 43, [s 101\(1\)](#).

R.R.O. 1990, Reg. 194: [Rules of Civil Procedure](#), [Rule 40.01](#).

24. Rule 40.02(1) of the *Rules of Civil Procedure* provides that an interlocutory injunction or mandatory order may be granted on motion without notice for an interim period not exceeding ten days.

R.R.O. 1990, Reg. 194: [*Rules of Civil Procedure*, Rule 40.02.](#)

B. An Injunction Should be Granted

25. A municipality whose duty is to enforce its by-law need not show that it will suffer irreparable harm in the same way that must be established by a private applicant.

[*Hamilton \(City\) v. Loucks*](#), ONSC, 2003 CanLII 64221, at [para 30](#).

26. Robert Sharpe, former Justice of the Ontario Court of Appeal, wrote at para. 4.10 of his text “Injunctions and Specific Performance”:

Where the plaintiff complains of an interference with property rights, injunctive relief is strongly favoured. This is especially so in the case of direct infringement in the nature of trespass ... Where property rights are concerned, it is almost that damages are presumed inadequate and an injunction to restrain continuation of the wrong is the usual remedy.

Robert J Sharpe, [“Injunctions and Specific Performance”](#) (2019) Thomson Reuters Canada at 4.10.

27. Where an injunction is authorized by statute, different considerations apply than where an injunction is sought at common law. Where a statutory injunction is sought:

- a) The Court’s discretion is more fettered, and the factors considered by a court when considering equitable relief will have more limited application;
- b) An applicant will not have to prove that damages are inadequate or that irreparable harm will result if the injunction is refused;
- c) Proof of damages or proof of harm to the public is not an element of the legal test;
- d) There is no need for other enforcement remedies to have been pursued;
- e) The Court retains a discretion as to whether to grant injunctive relief. Hardship from the imposition and enforcement of an injunction will generally not outweigh the public interest in having the law obeyed. However, an injunction will not issue where it would be of questionable utility or inequitable; and

- f) It remains more difficult to obtain a mandatory injunction.

[Retirement Homes Regulatory Authority v. In Touch Retirement Living for Vegetarians/Vegans Inc.](#), 2019 ONSC 3401, at para 47.

28. Where it is alleged that a municipal by-law is being breached, the emphasis for injunctive purposes is on whether or not there is a serious question to be tried. If the municipality satisfies the first criterion, the usual remedy is for the court to grant an interlocutory injunction that restrains the ongoing breach.

[Hamilton \(City\) v. Loucks](#), ONSC, 2003 CanLII 64221, at para 30.

29. Where by-laws of a municipality are being flagrantly violated, a court ought to assist the municipality by granting interlocutory relief.

[Municipality of Metropolitan of Toronto v. N.B. Theatrical Agencies, Inc.](#), 1984 CanLII 2092 (ONSC), cited in [Hamilton \(City\) v. Loucks](#), ONSC, 2003 CanLII 64221, at para 30.

30. The City has provided an abundant amount of evidence that the respondents are flagrantly violating the City's by-laws with no sign of any intention to change their behaviour.

C. RJR MacDonald Test

31. The Supreme Court established a three-part test for granting a prohibitive interlocutory injunction in *RJR-MacDonald Inc. v Canada (Attorney General)*. Before exercising its discretion, a court must consider the following questions:

- a. Is there a serious question to be tried? In other words, has the moving party presented a case which is not frivolous or vexatious?
- b. Will the moving party, if unsuccessful, suffer irreparable harm which cannot be compensated other than through the granting of an injunction?

- c. Does the balance of convenience favour the moving party? In other words, who will suffer the greater harm from the granting or refusal of an interlocutory injunction, pending a decision on the merits?

[RJR - MacDonald Inc. v Canada \(Attorney General\)](#), [1994] 1 SCR 311 [RJR], at paras 40, 48.

32. The party requesting an injunction has the onus of demonstrating there is a serious issue to be tried. The determination of whether the threshold of a “serious issue to be tried” is met is based on common sense and an extremely limited view of the case on the merits.

[RJR](#), *supra* at para 83.

33. With respect to the first prong of the test, a court should not extensively review the merits of a case, but must determine that the issues raised are not frivolous or vexatious.

[Ontario v Shehrazad Non Profit Housing Inc.](#), 2007 ONCA 267 at para 19.

34. Recently, the Ontario Superior Court cited *Hamilton v. Loucks* in *Harrington v Lane*, in stating:

“The applicant points out that there is a modified test where a moving party requests an interlocutory injunction to prohibit interference with his/her property rights, which provides that if the plaintiff can establish the first criterion then the injunction should be granted unless there are exceptional circumstances (see *Hamilton (City) v. Loucks*, 2003 CanLii 64221 at para. 27 [2003 CarswellOnt 3663 (Ont. S.C.J.)]).

However, where the plaintiff relies on the modified traditional test, the standard to be met for the first criterion should be higher than the standard required where all three criteria are to be considered. Because of the emphasis on the first criterion, the plaintiff must prove that it has a strong *prima facie* case in order to satisfy the court that there is a serious question to be tried. (see *Hamilton(City)* at para. 37).”

[Harrington v Lane](#), 2018 ONSC 2059 at [para 27](#).

35. The evidence of the City establishes that it has a strong *prima facie* case that its by-laws are being breached.

36. In the event that this Court requires further evidence beyond evidence of the breaches of City of Ottawa by-laws, there is overwhelming evidence of irreparable harm and an injunction is the appropriate remedy on a balance of convenience.

37. In *RJR – Macdonald*, the Supreme Court described irreparable harm in the following terms:

At this stage the only issue to be decided is whether a refusal to grant relief could so adversely affect the applicants' own interests that the harm could not be remedied if the eventual decision on the merits does not accord with the result of the interlocutory application.

“Irreparable” refers to the nature of the harm suffered rather than its magnitude. It is harm which either cannot be quantified in monetary terms or which cannot be cured, usually because one party cannot collect damages from the other.

[RJR](#), *supra* at para 66.

38. When asked to assess the irreparable harm to a municipality in an injunction to respond to ongoing blockades, Justice Arrell in *City of Brantford v. Montour et al* stated:

In my view, the City will suffer irreparable harm, if that has not already occurred, if this situation is allowed to continue. I find as a fact, on the evidence before me, that the economy of this small city is at risk; the employment of members of the community are likewise at risk; the reputation of the City as a place to live, work and invest is at risk; the tax base is at risk; all as a result of the City being unable to regulate development, provide a conflict-free environment for investment, employment and the raising of families, and the inability of the City to ensure to local residents and the investment community that the rule of law prevails.

[City of Brantford v. Montour et al.](#), 2010 ONSC 6253, at para 35.

39. The City will suffer irreparable harm if the injunction is not granted. The respondents are impacting the City’s ability to perform essential functions and protect public safety. This is inhibiting them from fulfilling their obligations as a municipality.

40. In order to assess the balance of convenience, the Court must determine which of the parties will suffer the greater harm from the granting or refusal of an interlocutory injunction, pending a decision on the merits.

[RJR](#), *supra* at para 48.

41. In assessing the balance of convenience, the court must consider the relative impact on the parties in granting or withholding the injunction. The other factors of the test will influence the weight to be given to the balance of convenience.

Robert J Sharpe, [Injunctions and Specific Performance](#) (2019) Thomson Reuters Canada at 2.530-2.540.

42. The City is not seeking a complete ban on the respondent's demonstration. The right to expression and peaceful assembly is an important right protected by the *Charter of Rights and Freedoms*. However, there is ample evidence that the respondent's current actions and flagrant disregard for the City's by-laws go far beyond exercising their right to protest. The respondents' actions are significantly impacting the City's ability to perform essential functions.

43. In considering the balance of convenience, the City refers the Court to the discussion in *Canadian National Railway Company v. Doe*, which says

[...] expressive conduct by lawful means enjoys strong protection in our system of governance and law, expressive conduct by unlawful means does not. No one can seriously suggest that a person can block freight and passenger traffic on one of the main arteries of our economy and then cloak himself with protection by asserting freedom of expression.

Freedom of expression and association do not provide a legal basis to illegally deprive others of the enjoyment of their legal rights to use their land, operate their businesses, or travel. Neither does it guarantee the right to amplify one's voice by trammelling others' rights. The rule of law must be the dominant policy. If people do not respect the law then our rights become meaningless.

[Canadian National Railway Company v. Doe](#) 2020 ONSC 2998, at para 9 and 10, citing *Canadian National Railway v. John Doe*, 2013 ONSC 115, and *Canadian National Railway Company v. Doe*, unreported.

44. The respondents have shown themselves to have little regard to the City's by-laws, the effect of which is limiting the City's ability to provide essential services, and further impacts the ability of other citizens to enjoy their rights and public safety. The City will certainly suffer a greater harm than the respondents if the injunction is not granted.

D. Public Nuisance

45. In *Ryan v. Victoria* the Supreme Court of Canada defined public nuisance as:

The doctrine of public nuisance appears as a poorly understood area of the law. "A public nuisance has been defined as any activity which unreasonably interferes with the public's interest in questions of health, safety, morality, comfort or convenience": see *Klar, supra*, at p. 525. Essentially, "[t]he conduct complained of must amount to . . . an attack upon the rights of the public generally to live their lives unaffected by inconvenience, discomfort or other forms of interference": See G. H. L. Fridman, *The Law of Torts in Canada*, vol. I (1989), at p. 168. An individual may bring a private action in public nuisance by pleading and proving special damage. See, e.g., *Chessie v. J. D. Irving Ltd.* (1982), 1982 CanLII 2918 (NB CA), 22 C.C.L.T. 89 (N.B.C.A.). Such actions commonly involve allegations of unreasonable interference with a public right of way, such as a street or highway.

[*Ryan v. Victoria \(City\)*](#), [1991] 1 SCR 201, at para 52.

46. The evidence establishes that the ongoing actions of the respondents is an attack upon the rights of the public to live their lives unaffected by interference.

E. The Application Can Be Heard on an Ex Parte Basis

47. A motion for an interim injunction can be made ex parte or on notice. Argument on the motion is generally quite limited and, if an order is made for interim injunctive relief, the order is typically for a brief, specified period of time:

Robert J. Sharpe, "[Injunctions and Specific Performance](#)" (2019) Thomson Reuters Canada at para. 2.15. [1711811 Ontario Ltd. v. Buckley Insurance Brokers Ltd.](#), 2014 ONCA 125 at para 51.

F. Persons Unknown are Proper Respondents

48. It is settled law in Canada that non-parties who violate injunctions may be found in contempt of court. Specifically, non-parties may be seen as being, if not technically bound by the order, bound to obey the order.

[MacMillan Bloedel Ltd. v. Simpson](#), [1996] 2 SCR 1048, at para 31.

49. In *MacMillan Bloedel Ltd. v. Simpson*, the court explained:

The practice of using terms like "John Doe" is directed at permitting a plaintiff to sue a person whose name the plaintiff does not know....We have been referred to no authority suggesting that an order made under a valid action is invalid because the style of cause of the action included a reference to "John Doe, Jane Doe and Persons Unknown".

[MacMillan Bloedel Ltd. v. Simpson](#), [1996] 2 SCR 1048, at para 39.

PART V: ORDER REQUESTED

50. The City respectfully requests that the Court grant the following relief:

- a. An Order in accordance with the draft Order submitted by the applicant.

ALL OF WHICH IS RESPECTFULLY SUBMITTED THIS 14th DAY OF February, 2022.



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SCHEDULE “A” - List of Authorities

Hamilton (City) v. Loucks, ONSC, [2003] OTC 848.

Ontario v Shehrazad Non Profit Housing Inc., 2007 ONCA 267.

Retirement Homes Regulatory Authority v. In Touch Retirement Living for Vegetarians/Vegans Inc., 2019 ONSC 3401.

RJR - MacDonald Inc. v Canada (Attorney General), [1994] 1 SCR 311.

Robert J Sharpe, “Injunctions and Specific Performance” (2019) Thomson Reuters Canada.

City of Brantford v. Montour et al., 2010 ONSC 6253.

Canadian National Railway Company v. Doe, 2020 ONSC 3998.

Ryan v. Victoria (City), [1991] 1 SCR 201.

1711811 Ontario Ltd. v. Buckley Insurance Brokers Ltd., 2014 ONCA 125.

MacMillan Bloedel Ltd. v. Simpson, [1996] 2 SCR 1048.

SCHEDULE “B” – RULES AND REGULATIONS

Courts of Justice Act, RSO 1990, c C 43, Schedule B.

Municipal Act, 2001, S.O. 2001, c. 25.

Rules of Civil Procedure, R.R.O. 1990, Reg. 194.

SCHEDULE “C” RELEVANT PROVISIONS FROM BY-LAWS

Idling Control By-law 2007-266

General Provision:	2. No person shall cause or permit a vehicle to idle for more than three (3) consecutive minutes in a sixty (60) minute period.
Exemptions:	3. Section 2 shall not apply to, (a) vehicles assisting in an emergency activity; (b) mobile workshops while they are in the course of being used for their basic function; (c) vehicles where idling is required to repair the vehicle or prepare it for service; (d) armoured vehicles where a person remains inside the vehicle while guarding the contents of the vehicle or while the vehicle is being loaded or unloaded; (e) vehicles required to remain motionless because of any emergency, traffic, weather condition or mechanical difficulty over which the person driving the vehicle has no control; (f) vehicles engaged in a parade or race or any other event authorized by Council; (g) private transit vehicles while passengers are embarking or disembarking en route or in terminals; (h) vehicles transporting a person where a medical doctor certifies in writing that for medical reasons a person in the vehicle requires that temperature or humidity be maintained within a certain range; (i) occupied vehicles when the temperature outside the vehicle is greater than twenty-seven degrees Celsius (27°C) including the humidex calculation or less than five degrees Celsius (5°C) including the windchill value as determined by the Environment Canada temperature readings; - ia) occupied vehicles when the temperature outside the vehicle is less than negative fifteen degrees Celsius including the windchill value as determined by the Environment Canada temperature reading, to be applicable within the demonstration zone as defined in Schedule A attached to this by-law and RCGT Park at 302 Conventry Road; (j) vehicles engaged in providing City services which vehicles shall be subject to the City’s Vehicle and Equipment Idling Policy dated June, 2002, Number FS01; (k) vehicles engaged in a normal farm practice; or (l) vehicles, including hybrid vehicles, that eliminate the emission of green house gases and criteria air contaminants during the idling phase of operation.

Fireworks By-law 2003-237

Definitions:	“consumer firework” means an outdoor, low hazard, recreational firework that is classed as a subdivision 1 of Division 2 of Class 7 Fireworks under the Act and includes fireworks showers, fountains, golden rain, lawn lights, pin wheels, Roman candles, volcanoes, and sparklers but does not include Christmas crackers and caps for toy guns containing not in excess of twenty-five one-hundredths of a grain of explosive used per cap; “display firework” means an outdoor, high hazard, recreational firework that is classed as a subdivision 2 of Division 2 of Class 7 Fireworks under the Act, and includes rockets, serpents, shells, bombshells, tourbillions, maroons, large wheels, bouquets, bombardos, waterfalls, fountains, batteries, illumination, set pieces and pigeons but does not include firecrackers; “firecracker” means a pyrotechnic device that explodes when ignited and does not make any subsequent display or visible effect after the explosion, and includes those devices commonly known as Chinese firecrackers; “fireworks” means display fireworks, pyrotechnic special effects fireworks and consumer fireworks; “prohibited firework” includes but is not limited to cigarette loads or pings, exploding matches, sparkling matches, ammunition for miniature tie clip, cufflink or key chain pistols, auto alarms or jokers, cherry bombs, M-80 and silver salutes and flash crackers, throw down torpedoes and crackling balls, exploding golf balls, stink bombs and smoke bombs, tear gas pens and launchers, party peppers and table bombs, table rockets and battle sky rockets, fake firecrackers and other trick devices or practical jokes as included on the most recent list of prohibited fireworks as published from time to time under the Act;
Sale of Fireworks and Firecrackers	3. (1) No person shall sell any firecrackers. (2) No person shall sell any prohibited fireworks. (3) No person shall sell consumer fireworks except on the following days: (a) Victoria Day and Canada Day, and (b) each of the seven business days immediately preceding Victoria Day and Canada Day. (4) Every person in charge of a store shall ensure that fireworks displayed in store windows shall be mock samples only and not contain explosive composition.
Discharge of Firecrackers and prohibited Fireworks	4. (1) No person shall discharge any firecrackers. (2) No person shall discharge any prohibited fireworks.
Consumer Fireworks	5. (1) No person shall discharge consumer fireworks except on the following days: (a) Victoria Day, (b) the day immediately preceding Victoria Day, (c) the day immediately following Victoria Day, (d) Canada Day, (e) the day immediately preceding Canada Day, or (f) the day immediately following Canada Day. (2) A person eighteen (18) years of age or older may hold a display of consumer fireworks on any land belonging to him or her or on any other privately owned land where the owner thereof has given permission for such display or discharge of fireworks. 4 (3) No person shall discharge any consumer fireworks in such a manner as might create danger or constitute a nuisance to any person or property, or to do or cause or

	allow any unsafe act or omission at the time and place for the discharging of any fireworks. (4) No person shall discharge any consumer fireworks in or into any building, doorway, or automobile. (5) No person shall discharge any consumer fireworks in or on or into any highway, street, lane, square or other public place. (6) No person under the age of eighteen (18) years shall discharge any consumer fireworks except under the direct supervision of and control of a person eighteen (18) years of age or over. (7) No person being the parent or guardian of any person under the age of eighteen (18) years shall allow the person to discharge any consumer fireworks except when such parent or guardian or some other responsible person of eighteen (18) years of age or over is in direct supervision and control
Display Fireworks	6. (1) No person or group of persons shall hold a display of display fireworks in the City of Ottawa without first having obtained a permit to do so issued by the Fire Chief. (2) No person or group of persons shall discharge any display fireworks in the City of Ottawa, without first having obtained a permit issued by the Fire Chief authorizing the display of display fireworks.

Open Air Fire By-law 2004-163

Definition:	“open air fire” means the burning of material such as wood, tree limbs and branches where the flame is not wholly contained and includes campfires, brush fires, burn drums, windrows and outdoor fireplaces, but does not include barbecues;
Prohibitions:	3. (1) No person shall set or maintain an open air fire without first having obtained the necessary permit from the Fire Chief. (2) Despite subsection (1), no person shall set or maintain an open air fire in any shaded area shown on any of the maps attached as Schedules “A” to “P” inclusive, Schedule A-1, Schedule B-1, Schedule D-1, Schedule F-1, Schedule F-2, Schedule H-1, Schedule H-2, Schedule K-1, Schedule K-2, Schedule L-1, Schedule O-1 and Schedule P- (3) Subject to subsection (1), no person shall set or maintain an open air fire in the hatched areas on Schedule A, Schedule B, Schedule D, Schedule F, Schedule H, Schedule K, Schedule L, Schedule O and Schedule P unless, (a) it is a campfire, (b) it is an open air fire set and maintained in an outdoor fireplace, or (c) it is a brush fire set and maintained between December 1st and March 31st. (4) Subject to subsection (1), a person owning or operating a campground as identified on Schedule 2 may apply for a permit to set campfires or open air fires in an outdoor fireplace. (5) Subject to subsection (1), a person owning and operating a farming business in the shaded areas identified on Schedules “A” to “P” inclusive, Schedule A-1, Schedule B-1, Schedule D-1, Schedule F-1, Schedule F-2, Schedule H-1, Schedule H-2, Schedule K-1, Schedule K-2, Schedule L-1, Schedule O-1 and Schedule P-1 may apply for an agricultural open air fire permit which includes permission to set and maintain a windrow. (6) No person shall set or maintain an open air fire when a fire ban on open air fires has been issued by the Fire Chief.

Noise By-law 2017-255

Unusual Noise, Noise Likely to Disturb	No person shall cause or permit any bass noise, unusual noise or noise likely to disturb the inhabitants of the City.
Bells, Horns, Shouting	3. No person shall cause or permit the ringing of any bell, sounding of any horn, or shouting in a manner likely to disturb the inhabitants of the City provided that nothing herein contained shall prevent, (a) the ringing of bells in connection with any church, chapel, meeting house or religious service (b) the ringing of bells in connection with City Hall between 0900 hours and 2100 hours of the same day; (c) the ringing of fire bells or fire alarms or the making of any other noise for the purpose of giving notice of fire or any other danger or any unlawful act, other than a car alarm, for a continuous period of time of twenty (20) minutes or less. (d) the sounding of a car alarm for a continuous period of time of five (5) minutes or less.
Sound Reproduction or Amplification	4. (1) No person shall operate or use or cause to be operated or used any sound reproduction device between 2300 hours of one day and 0700 hours of the next day so as to disturb the peace and comfort of, (a) any person in any dwelling house, apartment house, hotel or other type of residence; or (b) any owner or operator of a business in his or her place of business. (2) Despite subsection (1), no person shall operate or use or cause to be operated or used any sound reproduction device so as to disturb the peace and comfort of: (a) any person in any dwelling house, apartment house, hotel or other type of residence before 0900 hours on any Saturday; or (b) any person in any dwelling house, apartment house, hotel or other type of residence before 1200 hours on any Sunday or statutory or public holiday; or (c) any owner or operator of a business in his or her place of business before 0900 hours on any Saturday; or (d) any owner or operator of a business in his or her place of business before 1200 hours on any Sunday or statutory or public holiday. (3) No person shall operate or use or cause to be operated or used any sound reproduction device in any dwelling house, apartment house, hotel or other residence between 0700 hours and 2300 hours of the same day, the noise from which sound reproduction device: (a) is clearly audible in another dwelling within the said residence; and (b) has an equivalent sound level (Leq) greater than 45 dB(A) when measured in another dwelling within the said residence. (4) On any Sunday or statutory or public holiday, the provisions of subsection (3) shall not come into effect until after 1200 hours. (5) No person shall operate or use or cause to be operated or used any sound reproduction device on any highway or other public place.

	(6) No person shall operate or use or cause to be operated or used any sound reproduction device originating from or in connection with the operation of any commercial establishment between 0700 hours and 2300 hours of the same day, the noise from which sound reproduction device when measured in any business, dwelling house, apartment house, hotel or any other type of residence has an equivalent sound level (Leq) greater than 45 dB(A). (7) No person shall operate or cause to be operated or used any sound reproduction device between 0700 hours and 2300 hours of the same day, the noise from which sound reproduction device has an equivalent sound level (Leq) greater than 55 dB(A) when measured outside of the business, dwelling house, apartment house, hotel or other residence, at or inside the property line of the business owner or person whose peace and comfort has been disturbed. (8) The provisions of subsections (6) or (7) shall not apply where circumstances are such that an infraction is covered by subsections (1), (2), (3) or (4) and those subsections shall prevail. (9) Subsections (5), (6) or (7) do not apply to prevent, (a) the use of sound reproduction devices in the City's parks provided that the user has a permit from or the written permission of the City to do so and the user otherwise complies with the provisions of this by-law; (b) the amplification of the sound of the ringing of bells or the playing of chimes in connection with: i. any church, chapel, meeting house or religious service, or ii. City Hall between 0900 hours and 2100 hours of the same day; (c) the use of sound reproduction devices in a reasonable manner for parades or special events carried on under the authority of a permit pursuant to By-law No. 2001-260, the Special Events By-law or any successor thereto, or in accordance with the law; (d) the use of sound reproduction devices in a reasonable manner for any social, recreational, community or athletic activity approved on a highway pursuant to the provisions of By-law No. 2003-530, the Traffic and Parking By-law, or any successor thereto; or (e) the use of musical instruments by street musicians on the highway or other public place, provided that the use is not liable to disturb the peace, enjoyment and comfort or convenience of individuals or the public. (10) Assessment of noise complaints may be undertaken at the point of reception of the noise for the purposes of confirming a violation.
Provisions relating to noise stemming from various machinery (general rule is that it cannot be operated at more than 50 dB(A))	Relevant noise sources: • Air conditioners, heat pumps, compressors, condensers, chillers, cooling towers and similar devices – see section 5 • Exhaust fan, exhaust system, intake fan generators, commercial dryer or similar device – see section 6 • Pump or filtration systems – see section 7 • Power equipment – see section 8 • Heavy-duty equipment – see section 9 • Unnecessary motor vehicle noise – see section 15 • Idling motor vehicles (period exceeding 5 minutes) – see section 16 • Mufflers – see section 17

NOTE:	There are several exemptions in this by-law (agriculture, snow removal, construction, etc.), but none apply to demonstrations or to tractor trailers
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Use and Care of Roads By-law 2003 – 498

General Prohibitions:	3. (1) No person shall, unless otherwise authorized by the provisions of this or any other by-law of the City, (a) permit oils, chemicals or substances to be deposited or spilled on a highway including such substances deposited as a result of car maintenance activities, car rust prevention measures and the spillage of rust protecting substances and the general spillage of substances from vehicles; (b) throw, push, plow, dump or otherwise deposit snow or ice on a highway; (c) deposit, drop, scatter, store, spill or throw any filth, earth, ashes, manure, leaves, or garbage except as permitted in any City by-law and except as allowed in The Regional Municipality of Ottawa-Carleton By-law No. 44 of 1996, or any amendment or re-enactment thereof, paper, hand bill, advertisement, or any vegetable matter, stone, lime, sand, tin, wood, the carcass of any dead animal, fish or fowl, in or upon a highway; (d) encumber or damage a highway by animals, vehicles or other means; (e) permit or allow any paper, hand bill, advertisement or any container, whether made of plastic, cardboard or paper, to be blown from private property onto a highway; (f) obstruct a drain, gutter or water course along or upon a highway; (g) place a plank or other material in or over any gutter or ditch for the purposes of making a crossing except for a period of not more than 24 hours; (h) walk upon, ride, drive, or load an animal, or move, drive, run or propel a vehicle upon, over or across a newly constructed sidewalk or pavement before it has been opened for use by the public; (i) set or carry fire on a highway; (j) throw, pile, store, or cause any material to be thrown or piled upon a highway, except for the purpose of having it immediately delivered upon adjacent premises, nor shall any person saw or split any cordwood or firewood upon a highway or being the owner of cordwood, firewood or topsoil shall deposit on any highway, or permit it to remain thereon for a longer time than is necessary for its immediate removal to the premises adjacent thereto; (k) place or expose, or cause any merchandise or articles of any kind, to be placed or exposed upon a highway or outside of a building so that the same shall project over any part of the highway; provided that this paragraph shall not prevent the use of part of a sidewalk for not more than 12 hours at any one time for the taking in, or delivery of merchandise or other articles, if sufficient space is left encumbered for the use of pedestrians, and the merchandise or articles are removed there from without unnecessary delay, or prevent the City from granting written permission to any person to construct platforms across drains, gutters, or water courses on any highways for facilitating the reception or delivery of merchandise or other articles, provided however, the City may withdraw any permission so granted whenever it is shown that a nuisance has thereby been established; (l) sell on the highway, without approval of the City, any real or personal property; (m) move, or cause to be moved a vehicle equipped with cleats, flanges, or tracks on its wheels, or rollers, or any of them, on or along the traveled portion of the highway, except by means of a float, trailer, or other similar device, providing that a vehicle is so equipped including a vehicle for the digging and backfilling of trenches, may be moved directly across the traveled portion of the highway, if a preventative mat has first been laid on the surface of the portion of the highway to be crossed, provided however that this paragraph shall not apply when a vehicle is operating with the written permission of the General Manager; (n) urinate or defecate on any highway; (o) remove a barricade or notice or enter upon or use a highway temporarily closed under the provisions of this or any City by-law;
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	(p) remove or move a barricade, sign or light placed around any excavation in a highway; (q) erect or maintain any gate or door so that the same shall open or swing outward over any part of a sidewalk or highway; (r) move or cause any building or structure to be moved into, along, or across a highway without having been approved under a City by-law. (2) No owner or occupier of land shall allow any part of a tree, shrub, sapling, hedge or any other plant to extend over or upon any highway, so as to interfere with, impede or endanger persons using the highway. (3) No owner or operator of a parking station, parking lot, used car lot, automobile service station or mechanical car wash shall permit water used for washing or cleaning a motor vehicle to escape upon, overflow or run across or upon a highway. (4) No person shall break, dig up, destroy or damage the sod or grass of a boulevard, or a fence, or railing erected and maintained for the protection of the boulevard. (5) No person shall walk on the boulevard except when there is no municipal sidewalk. (6) No person, other than the City, shall erect a fence, construct a wall, or plant a hedge, in, over, or upon a highway.
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The City of Ottawa
Applicant

and

Persons Unknown

Respondents

Court File No. CV-22-88569

**ONTARIO
SUPERIOR COURT OF JUSTICE**

Proceeding Commenced at Ottawa

**FACTUM OF THE APPLICANT
City of Ottawa**

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